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C O N F I D E N T I A L WARSAW 001225

SIPDIS

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TAGS: EFIN PHUM KNAR PL

SUBJECT: FOREIGN JEWISH NGOS PROTEST LACK OF CONSULTATIONS
ON POLISH PRIVATE PROPERTY LEGISLATION

REF: A. 2004 WARSAW 1368

1B. 2003 WARSAW 4074

Classified By: Political Counselor Mary Curtin, reasons 1.4 (b) and (d).

Summary

11. (SBU) In Warsaw on February 16-17, a World Jewish Restitution Organization delegation discussed private property restitution with the Ambassador, SLD party leader Jozef Oleksy, opposition leader Jan Maria Rokita, Treasury Minister Jacek Socha and Sejm Speaker Wladzimirz Cimoszewicz. The delegation expressed its dissatisfaction with the GOP's failure to carry out promises to consult on private property legislation with NGOs. The delegation called the current draft legislation conditionally adopted by the Polish Council of Ministers on February 15 unacceptable as it contains no possibility for in rem restitution and provides for cash compensation at the rate of only 15 percent of current value. They also floated the idea of a separate settlement for Jewish owners.

12. (SBU) In response to the group's request, the Ambassador promised to raise again the issue of consultations with the GOP and advised that public pressure on the Poles may be counterproductive at this time. Oleksy expressed his support for consultations, but rejected in rem restitution and a separate law only for Jewish owners as impractical. Rokita supported consultations and in rem restitution, but also saw a separate law for Jews as unrealistic. Socha apologized for the lack of consultations and unsuccessfully tried to sell the delegation on the merits of the draft law. Cimoszewicz offered consultations once the law reached the Sejm. The delegation, however, could not come to a common position on his offer. End summary.

Ambassador Offers to Push GOP

13. (SBU) On February 16, a World Jewish Restitution Organization (WJRO) delegation consisting of World Federation of Polish Jews (U.S. Branch) representative Kalman Sultanik, Holocaust Restitution Committee Chairman Yehuda Evron, Association of Polish Jews in Israel Chairman Arye Edelist and WJRO advisor Monika Krawczyk met with the Ambassador. The delegation complained that Poland remained one of the few countries in Central Europe that had yet to deal with private property restitution. The delegation pointed out that despite promises by PM Miller in 2002, FM Cimoszewicz in 2003, and Deputy Minister of Treasury Andrzej Szarawarski in 2004 (Ref A), the GOP had yet to begin consultations with NGOs on private property legislation. The delegation called draft legislation on private property compensation that the Polish Council of Ministers approved conditionally on February 15 unacceptable because it made no provision for in rem restitution and provided for cash compensation at the rate of only 15 percent of current value.

14. (C) The Ambassador responded that the U.S. had repeatedly urged the GOP to engage in consultations on the private property legislation. He stated that he would send a letter to Treasury Minister Socha again urging consultations with the WJRO and other U.S. NGOs (note: This letter was delivered on February 18). He noted that the draft approved by the Council of Ministers did not have a citizenship requirement, which was an improvement over the legislation approved by the Sejm in 2001 (later vetoed by President Kwasniewski). He suggested that public pressure would likely result in the GOP becoming even more uncooperative. (Note: At a February 15 dinner, the Israeli Ambassador delivered a similar but stronger message. He told the delegation to avoid a public campaign as he believed that this would scuttle any private property solution and result in increased anti-Semitism in Poland. The delegation reportedly agreed to hold off on public pressure for the time being. End note).

SLD Leader Oleksy for Consultations, Against Separate Law

15. (SBU) On February 16, the delegation met with SLD party chief Jozef Olesky. Sultanik expressed the WJRO's deep

disappointment over the lack of consultations, no possibility for in rem restitution in the GOP bill and the proposed 15 percent cash compensation. In a surprise move, Sultanik suggested that as Jewish suffering had been greater and unique,⁸ a separate law to deal with Jewish private property should be considered.

16. (SBU) Oleksy agreed that consultations should take place, but urged the WJRO to be favorable toward the GOP's legislative proposal as he believed that "once the

nationalist government takes power no law on this issue will be likely." (Note: Oleksy's reference was to the center-right government expected after elections later this year. End note.) Oleksy said the return of actual properties was not possible given changes in ownership in the past 60 years. He called a separate law for Jewish owners a non-starter as this would cause an anti-Jewish backlash and would never pass the Sejm. He added that when he was Prime Minister in the mid-1990s, WJRO leader Israel Singer had agreed to one law dealing with all owners. He asked the delegation what percentage compensation would be satisfactory, but the delegation declined to give a figure.

Opposition's Rokita Backs in rem Restitution

17. (SBU) Meeting with Civic Platform (PO) leader Jan Maria Rokita (likely to be Poland's next PM) on February 16, the delegation emphasized that now is the time to do justice for all who lost property, especially Holocaust survivors. Evron was particularly adamant on this point and cited the fact that the descendants of Holocaust survivors "cannot understand why democratic Poland has done nothing, they ask me if Poland is still communist." Sultanik added that further delay could "hurt Polish-Jewish and Polish-Israeli relations." The delegation urged Rokita to weigh in with the GOP in favor of consultations with the WJRO, in rem restitution and a compensation rate higher than 15 percent. Sultanik raised the idea of a separate law on former Jewish properties.

18. (SBU) Rokita agreed that the private property issue needed to be settled as soon as possible. He declared "the maximum of good will" in this regard and added that PO was considering adopting a position supporting in rem restitution where possible. He noted his personal support for in rem restitution, provided that a legal mechanism that the courts would not overturn could be found. He agreed that 15 percent was symbolic compensation, but added that no more than this was possible given Polish budgetary limits. While declaring his support for consultations, Rokita urged the delegation to approach the GOP directly on this issue. He rejected the idea of a separate law for Jewish owners as this would be contrary to the principle of equality before the law and would likely be found unconstitutional in Polish courts.

Treasury Minister Apologizes for Lack of Consultations

19. (SBU) On February 17, the delegation met with Treasury Minister Jacek Socha, Treasury's Reprivatization Department Director Krzysztof Pawlak, and Reprivatization Expert Magdalena Falkowska. Sultanik stated he "was shocked" the GOP had "broken its promises to consult with the WJRO," citing in particular then Deputy Treasury Minister Szarawarski's April 22, 2004 promise to consult (Ref A). Edelist seconded Sultanik, calling the lack of consultations "contrary to the rules of a democratic system." He repeated his objections, adding that the bill left out much Jewish property as it covered nationalization acts in 1944-1962 with the exception of one from March 1946 dealing with former German and Jewish property.

10. (SBU) Socha, taken aback by the delegation's statements, turned to Pawlak in Polish and demanded, "why did you not tell me that we should carry out consultations on this before sending it to the parliament?" Pawlak responded that Szarawarski had agreed to consultations, but only after the law had been accepted by the Council of Ministers. Socha shot back, "it would be senseless to consult then." Socha apologized for the lack of consultations and said his staff had not informed him of Szarawarski's promise. The delegation interjected that WJRO Chairman Singer had sent a letter to PM Belka in November 2004 regarding consultations and that although Belka's office had tasked Treasury with drafting a response, no response had yet been received. Socha again apologized and requested that the WJRO present its position on specific issues in writing as soon as possible and that he would attempt to have these views taken into consideration.

11. (SBU) Socha added he had great sympathy for former owners, as his own family had lost properties in Buchacz, now in Ukraine. He stated that in rem restitution was already

possible via Polish courts. (Note: This is true, but only in cases of gross violation of the stipulations and procedures of nationalization decrees. End note.) He regretted the percentage of compensation was not higher, but 15 percent was the maximum Poland could afford. He added that the GOP had to be fair to all former owners and that 15 percent was the same rate that would be in new GOP draft legislation providing compensation to so-called "Easterners," who had lost property in what is now Lithuania, Belarus and Ukraine

(Ref B). He added that 15 percent should come as no surprise, as for several years public discussions of reprivatization mentioned approximately this rate. He noted that this compared favorably with Hungary, which had only paid 10 percent. Pawlak explained that in the final draft a clause had been added to include property confiscated by Nazi Germany after September 1, 1939, and later taken over by the Polish state; this clause included former Jewish property.

¶12. (SBU) Responding to Socha, the delegation stated that the WJRO had no prior knowledge of the 15 percent figure (Note: We understand that the WJRO was, in fact, familiar with GOP guidelines announced in March 2004 that foresaw a compensation rate of 10-15 percent. End note.) Edelist objected to the use of Hungary as a measure for comparison, as "the Czech Republic and Romania are returning actual properties, Poland should be compared with them."

Speaker Cimoszewicz Offers Consultations in Parliament

¶13. (SBU) On February 17 the delegation met with Sejm Speaker Włodzimierz Cimoszewicz, Sejm International Relations Office Director Krzysztof Szumski, and Cimoszewicz's assistant Mariusz Edgaro. Sultanik expressed the delegation's shock over the lack of consultations, saying that such behavior was "unacceptable in the civilized world," and repeated his objections to the draft law.

¶14. (SBU) Cimoszewicz stated that it was "shameful" that the private property issue had still not been solved, and expressed his regrets that no consultations had taken place. Citing his own family's loss of property in Ukraine, he said he understood the deep emotional attachment to ancestral property, however, "history cannot be reversed" and in rem restitution was just not possible. He rejected the idea of a separate law on Jewish property as unrealistic. He said that while it appeared to be too late for consultations with the GOP, he was willing to offer consultations in the Sejm. He said that there were two possibilities: rapid consultations with a good chance of a law being passed or more detailed consultations with a significant risk that the bill would not be passed before parliamentary elections (which would require it to be reintroduced). He pledged to contact interested Polish and Jewish organizations and send them a copy of the GOP bill once it reached the Sejm.

¶15. (SBU) The delegation presented a divided response to Cimoszewicz's proposal. Evron, emphasizing that Holocaust survivors were rapidly passing away, said that the shorter consultations with a good chance of passage of the law were the best option. Sultanik disagreed, saying that the Jewish community needs more time to come up with a common position on specific proposals. Edelist took a position between the two, emphasizing that short consultations could be a solution if in rem restitution would be added to the bill.

Comment

¶16. (SBU) The lack of detailed consultations with the WJRO, despite repeated U.S. requests and GOP promises, is disappointing. At this point, it appears unlikely that any consultations will take place before the Council of Ministers sends the draft compensation law to the Sejm. This, and indications that the GOP will push for passage of the bill this term, gives added importance to Cimoszewicz's offer of Sejm consultations. To avoid missing this opportunity, the WJRO will need to better define its interests and prepare to respond rapidly to the Polish draft law.

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